IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7163 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NATUBHAI D THAKORE - Petitioner(s)

Versus

G S R T C & 2 - Respondent(s)

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Appearance :

MR SV RAJU for Petitioner(s) : 1,

MR PRANAV G DESAI for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 01/12/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or directions directing the respondents authorities not to take the possession of the premises in question i.e. the refreshment room situated at the S.T. Bus Stand, Palanpur, District ; Banaskantha from the petitioner without resorting to the eviction proceedings under the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972 and further prayed to direct the respondents not to take the forcible possession of the premises in question and to remove the lock which have been put by them over the locks of the petitioner.

2. In this matter, initially status-quo order was passed by this Court. However, after considering the Affidavit-in-reply and the Panchnama that the possession of the Canteen in question was already taken over on July 16, 1993, the learned Single Judge of this Court vacated the order of status-quo granted earlier. Thus, since 1993 more particularly

since July 16, 1993, the petitioner is not in possession of the Refreshment Room / Canteen in question situated at ST Stand, Palanpur, and the same must have been given to some other different person subsequently. There is no amendment to the main Special Civil Application challenging the subsequent action of taking over the possession illegally and/or unlawfully. Even the policy for the allotment of the Refreshment Room / Canteen has been drastically changed during the pendency of the present petition. Under the circumstances, no relief can be granted in favour of the petitioner after a period of about 15 years, more particularly when some other person/s must be running the Canteen and those persons are not before this Court.

3. However, after completion of the tenure of the present licencee and as and when the fresh Tenders are invited, it will be open for the petitioner to submit his tender application and on an appropriate representation being made to consider his case to meet with the highest offer, the same shall be considered by the ST Corporation accordingly

in light of the relevant Policy in force.

4. With the aforesaid observations and directions the present petition is disposed of.

(M.R. SHAH,J.)

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